

## TRANSPORTATION REPORT

From: Terry Whiteside

To: The Montana Wheat & Barley Committee

Date: September 2, 2010



### Rail Legislation Update - September 2010 - THINGS ARE HEATING UP AS THE AUGUST RECESS COMES TO A CONCLUSION

Both the House and Senate are currently well into their August/September recess and scheduled to return to Washington September 14. While the members of Congress have left town, the majority of their staff are still in DC working on the many issues that the House and Senate will consider prior to leaving in October to campaign and during the anticipated "lame-duck session" following the elections in November. We have recently heard from the staff of the co-sponsors of the Rockefeller bill (S.2889), Hutchison (R-TX), Thune (R-SD), and Dorgan (D-ND) that they are working on the legislation in an effort to move it forward and meeting with all interested parties. They report that they are fully committed to enacting the legislation this Congress. Chairman Oberstar in multiple public and private announcements indicate that he and Chairman Rockefeller are working on developing legislative strategies to obtain passage of the STB Reauthorization bill (including captive shipper reform) this Congressional session.

### Out West

Out West, there are some interesting developments in the captive

shipper/Congressional/Railroad arena that are sending signals to everyone.

The Commerce Committee staff is making the rounds with many shippers including Wheat Commissions and grower organizations with a series of interviews - asking both probing and in-depth questions about rates and service issues. They are preparing a report for their Chairman - Senator Rockefeller.

The Midwestern Association of State Departments of Agriculture issued a paper calling on President Obama and Congress to enact bipartisan rail reform legislation in the 110th Congress.

### **Back in DC**

Just before leaving town Senator Cantwell (D-WA), Murray (D-WA), and Lautenberg (D-NJ) introduced the "Focusing Resources, Economic Investment, and Guidance to Help Transportation (FREIGHT) Act of 2010" (see below). According to the authors of the bill it would establish the first comprehensive freight transportation policy and create a new Office of Freight Planning and development within the Department of Transportation that would coordinate efforts to improve the efficiency and operation of all modes of the national freight transportation system.  
<http://lautenberg.senate.gov/assets/FREIGHT>

Meanwhile the railroads are, below the radar, pushing to get an investment tax credit on infrastructure investments totaling upward of a billion dollars. In addition, we have heard from Senate Committee staff that the major railroads have offered to come back to the table to negotiate an "acceptable" S.2889. At this time we are not sure if this discussion has begun or what all parties believe is "acceptable". We are also not knowledgeable of the committee's anticipated timetable for this process. The railroads continue to push the view that railroads

are too vital and fragile for Congress to push on them - and that what they really need is a great deal of money investment by Congress in their rail plant.

What is apparently going on is a struggle for position as well as the hearts, minds and support of legislators as they return from the August recess.

It is likely that this fall, Congress will enact legislative reform that will affect the railroads, but it continues to be clear that both Rockefeller and Oberstar - both Chairman of their respective Senate (Commerce) and House (Transportation and Infrastructure) committee have a strong desire to obtain real shipper gains in their legislative efforts to reforming the Surface Transportation Board.



**Advice and Counsel from the Alliance for Rail Competition - Visit your Congressman**

Mike Snovitch, Executive Director of the Alliance for Rail Competition (ARC) an organization of captive rail customers reflected last week, "If the opportunity presents itself while either your Senator or member of Congress is home during the recess, let them know how important it is that meaningful rail shipper reform legislation such as S.2889 be enacted during this Congress. Also September is a good time to contact members Washington DC staff urging them to have their boss sign on as a co-sponsor of S.2889 if they have not done so already. If they are in the office they usually have more time to discuss in more depth the issues then when Congress is in session. Give them a call."

## **MIDWESTERN ASSOCIATION OF STATE DEPARTMENT OF AGRICULTURE STATE GOVERNMENTS PUSH CONGRESS AND PRESIDENT TO ENACT RAIL REFORM THIS YEAR**

***Citing High Shipping Costs and Lack of Competition, Agriculture  
Departments Endorse Bipartisan Legislation***

August 4, 2010: Citing higher costs and fewer transportation options for agriculture interests that were documented in a recent report by the Obama Administration, the **Midwestern Association of State Departments of Agriculture (MASDA)** has called on President Obama and Congress to enact bipartisan rail reform legislation in the 110th Congress. MASDA passed a resolution (full text below) at its annual conference recently, and said it will work for enactment of S. 2889, the Surface Transportation Board Reauthorization Act.

The Midwestern Association of State Department of Agriculture ([www.nasda.org/masda](http://www.nasda.org/masda)) represents the state departments of agriculture in the development, implementation, and communication of sound public policy and programs which support and promote the American agricultural industry, while protecting consumers and the environment. MASDA member states include: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin.

Excerpts of the Resolution Include the Following Findings:

- Agricultural commodities have historically carried higher rates than traffic more subject to competition from other modes;
- Rail rates for moving grain and oilseeds increased 46% from 2003 to 2007 while rates for all other commodities increased 32% during this same period;
- Many costs formally included in rail rates have been shifted to shippers outside the rates;

- Railroad fuel surcharges to rail customers, from 2001 to 2007, were 55% higher than the incremental increase in the cost of fuel
  - **RESOLUTION RAIL REFORM LEGISLATION**
  - **WHEREAS**, transportation is critical to American agriculture; and
  - **WHEREAS**, Congress, in Section 6206 of the Food, Conservation and Energy Act of 2008 (P.L. 110-246), directed the Secretaries of Agriculture and Transportation jointly to conduct a study of rural transportation issues; and
  - **WHEREAS**, the joint study was published on April 27, 2010, finding that agriculture is the largest user of freight transportation in the United States; and
  - **WHEREAS**, the joint study found that railroad transportation is often the only cost-effective mode of transportation available to many agricultural producers; that the Staggers Rail Act of 1980 partially deregulated the railroads in favor of greater market competition to protect shippers; and
  - almost 75 percent of agricultural areas in the nation lost rail competition from 1992 to 2007; and
  - **WHEREAS**, the joint study finds that, when deregulation leaves the protection of customers to competition, antitrust laws are vital to protect that competition, yet the freight rail industry is today mostly exempt from the nation's antitrust laws; and
  - **WHEREAS**, the study finds that agricultural commodities have historically carried higher rates than traffic more subject to competition from other modes; that rail rates for moving grain and oilseeds increased 46% from 2003 to 2007 while rates for all other commodities increased 32% during this same period; that many costs formally included in rail rates have been shifted to shippers outside the rates; and that railroad fuel surcharges to rail customers, from 2001 to 2007, were 55% higher than the incremental increase in the cost of fuel; and
  - **WHEREAS**, agricultural shippers and other shippers in rural America are complaining about railroad practices that deny shipper access to competing railroads and that agricultural shippers and other shippers in rural America complain about the limited access to the federal regulatory body that is supposed to protect shippers from unfair practices by their railroad carriers;
  - **THEREFORE, BE IT RESOLVED THAT:**
  - **the National Association of State Departments of Agriculture supports S.2889, the Surface Transportation Board**

**Reauthorization Act of 2009, bipartisan compromise legislation that was reported unanimously by the Senate Commerce, Science and Transportation Committee on December 17, 2009, to reform the practices of the Surface**

- Transportation Board to provide more shipper access to the Board and to ensure shipper access to competing railroads; and
- the National Association of State Departments of Agriculture supports S.146 and H.R.233, the Railroad Antitrust Enforcement Act of 2009, both of which were reported unanimously in 2009 from the Senate and House Judiciary Committees, to remove the current railroad antitrust exemptions; and
- the National Association of State Departments of Agriculture encourages Congress and the President of the United States of America to ensure enactment of these two bills in the 110th Congress; and
- the National Association of State Departments of Agriculture will transmit this resolution to every Member of the United States Congress and to the President of the United States of America and will work with other supportive groups to ensure the enactment of these two bills in the 110th Congress.

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**SENATORS CANTWELL, MURRAY, LAUTENBERG INTRODUCE  
BILL TO CREATE 21ST CENTURY FREIGHT  
TRANSPORTATION SYSTEM**

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## UNITED STATES SENATE

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**FOR IMMEDIATE RELEASE  
2010**

**CONTACT: Cantwell Press Office (202) 224-8277 Thursday, July 22,  
Murray Press Office (202) 224-2834  
Lautenberg Press Office (202) 224-3224**

# CANTWELL, MURRAY, LAUTENBERG INTRODUCE BILL TO CREATE 21ST CENTURY FREIGHT TRANSPORTATION SYSTEM

## *FREIGHT ACT WOULD ENSURE TRANSPORTATION INFRASTRUCTURE SUPPORTS BUSINESS GROWTH—A CRITICAL ISSUE FOR WASHINGTON STATE*

WASHINGTON, DC – U.S. Senators Maria Cantwell (D-WA), Patty Murray (D-WA), and Frank R. Lautenberg (D-NJ) today introduced legislation that would establish a freight transportation policy to ensure the nation's transportation system supports the United States' global economic competitiveness. The legislation would direct the federal government to develop and implement a strategic plan to improve the nation's freight transportation system and provide investment in freight transportation projects. The goals include reducing congestion and delays, increasing the timely delivery of goods and services, reducing freight-related transportation fatalities, and making freight transportation more efficient and better for the environment.

**“Exports play a critical role in Washington state's economy,”** said Senator Cantwell. **“A key piece of any thriving export economy is the smooth shipment of freight from farm and factory to port and customers. This legislation will help our export economy remain among the strongest in the nation by understanding how to maximize the way road, rail, sea, air and pipelines interact.”**

**“The safe and efficient movement of goods across our nation is critical for our businesses, especially for those in my home state of Washington,”** said Senator Murray, who chairs the Senate Appropriations Subcommittee on Transportation, Housing and Urban Development. **“The FREIGHT Act will help bring us a national freight policy that will dramatically improve freight mobility in this country and increase the competitiveness of our businesses, reduce congestion, and provide a much-needed boost to job creation in our communities.”**

This bill is especially important to Washington state, which depends on trade and has one of the most robust export economies in the country. One out of three jobs in Washington depends on trade. And in 2009, Washington state exported over \$51 billion worth of goods, making Washington state fourth in the nation for exports and first in the nation for exports per capita.

**“We are long overdue in establishing a national freight transportation policy that will meet the economic and mobility demands of the 21<sup>st</sup> Century,”** said Senator Lautenberg, who chairs the Senate Commerce Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security. **“Poor planning and underinvestment in our transportation infrastructure has led to increased congestion at our ports, highways, airports, and railways, and increases the cost of doing business. If we want to help U.S. businesses succeed and create new jobs, we need a freight transportation system**

**that works better and can grow with the changing needs of the global economy. This bill would put us on that path.”**

The “Focusing Resources, Economic Investment, and Guidance to Help Transportation (FREIGHT) Act of 2010” would establish America’s first comprehensive national freight transportation policy and create a new Office of Freight Planning and Development within the Department of Transportation (DOT) that would coordinate efforts to improve the efficiency and operation of all modes of the national freight transportation system. The Secretary of the DOT would be directed to develop and implement a long-term national freight transportation strategic plan that meets the goals of the FREIGHT Act, and issue biennial progress reports, which would include any challenges to implementation and any requested policy and legislative changes.

The major goals established by the FREIGHT Act are:

- Reduce delays of goods and commodities entering into and out of intermodal connectors that serve international points of entry on an annual basis.
- Increase travel time reliability on major freight corridors that connect major population centers with freight generators and international gateways on an annual basis.
- Reduce by 10 percent the number of freight transportation-related fatalities by 2015.
- Reduce national freight transportation-related carbon dioxide levels by 40 percent by 2030.
- Reduce freight transportation-related air, water, and noise pollution and impacts on ecosystems and communities on an annual basis.

The FREIGHT Act also would create a new competitive grant program for freight-specific infrastructure projects, such as port infrastructure improvements, freight rail capacity expansion projects, and highway projects that improve access to freight facilities.

The bill is endorsed by the Coalition for America’s Gateways and Trade Corridors. The organization's support letter can be found here:

<http://lautenberg.senate.gov/assets/FREIGHT.pdf>.